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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

IN RE: JUUL LABS, INC.
ANTITRUST LITIGATION

Case No. 3:20-CV-02345-WHO

This Document Relates to:

**ALL DIRECT PURCHASER ACTIONS**

<u>**DECLARATION OF EADON JACOBS**
**IN SUPPORT OF REPLY IN SUPPORT OF MOTION**
**TO COMPEL ARBITRATION OR STRIKE CLASS ALLEGATIONS**</u>

I, Eadon Jacobs, declare as follows:

 1. I am Senior Director of Product, Identity Verification & Ecommerce at Juul Labs,
Inc. ("JLI"). I have held that position since July 2020, and I have worked at JLI since November
2017. I have personal knowledge of the matters stated below based on my review of the records
of JLI.

 2. I previously submitted a declaration in this matter on January 15, 2021, in support
of JLI's Motion to Compel Arbitration or Strike Class Allegations (my "First Declaration"). In
my First Declaration, among other documents, I submitted printouts of JLI's website,
[www.juul.com](www.juul.com), as it existed on various dates relevant to the ecommerce transactions conducted by
the named plaintiffs in this case. As I stated in that declaration, the website printouts I submitted
were accurate as of the dates specified in my declaration based on my review of JLI's internal
business records.

 3. I have reviewed the Direct Purchaser Plaintiffs' Opposition To Defendant Juul
Labs, Inc.'s Motion to Compel Arbitration Or Alternatively Strike Class Allegations and
declarations of Anthony Martinez, Mallory Flannery, and Jessica McGee. Plaintiff Anthony
Martinez questions whether JLI's Website featured a "checkbox" next to the phrase "By
registering with JUUL Labs, Inc., you agree to our Terms and Conditions and Privacy Policy" on

Declaration in Support of Reply in Support of Motion to Compel Arbitration or Strike Class Allegations

the date that he created his account, August 26, 2018.  In support of my First Declaration, I reviewed historical records kept in the ordinary course of JLI's business regarding modifications to its website and confirmed that, as of the date Mr. Martinez created his account, the "checkbox" was a feature of the Sign Up page of JLI's website.

       4.     More specifically, JLI uses GitHub, an industry-standard tool for software development to maintain robust version control of its website's code.  In order to make a change to the JLI website's code (and thus to the website), a JLI engineer has to submit what is known as a "Pull Request," which shows the proposed changes to the current html code in one column (on the left) and the proposed html code as it will be if the changes are accepted (on the right).  Once approved, the proposed changes are made.  Approved Pull Requests are stored by GitHub in order to create a record of changes to the html code.

       5.     At my direction, JLI engineers retrieved and printed the August 9, 2018 Pull Request that resulted in the addition of the checkbox feature to JLI's website, attached hereto as **Exhibit 13**.  The Pull Request is titled "Anil/signup checkbox requirement #1353."  Excerpts of the August 9 Pull Request show that, on August 9, 2018, JLI changed its website html code so that users accessing its website from the United States would have seen the checkbox described above.  For example:

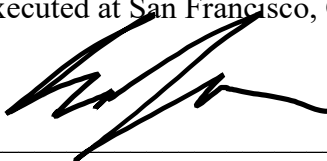Declaration in Support of Reply in Support of Motion to Compel Arbitration or Strike Class Allegations

6.      This is the code that implemented the change to JLI's website on August 9, 2018 inserting the "checkbox" requirement.  After August 9, 2018 – including on August 26, 2018 when Plaintiff Martinez created his account – all users accessing JLI's website from the United States were required to check the box to acknowledge JLI's Terms and Conditions and Privacy Policy before they could sign up for an account on JLI's website.

7.      I also requested and reviewed excerpts of the version of the JLI website html code as it existed on the day Plaintiff Flannery accessed JLI's website, February 26, 2019.  That version of the html source code shows that the checkbox requirement was active on the website on that date, as depicted in Exhibit 5 to my First Declaration.  Attached hereto as **Exhibit 14** is an excerpt of the version of the html code for the checkbox requirement as it existed on February 26, 2019.

8.      I also requested and reviewed excerpts of the version of the JLI website html code as it existed on the day Plaintiff McGee accessed JLI's website, July 19, 2019.  That version of the html code shows that the checkbox requirement was active on the website on that date, as depicted in Exhibit 6 to my First Declaration.  Attached hereto as **Exhibit 15** is an excerpt of the version of the html code for the checkbox requirement as it existed on July 19, 2019.

I declare under penalty of perjury that the foregoing is true and correct.


Executed at San Francisco, California on March 30, 2021.

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Eadon Jacobs

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